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7. (Amended) The skin preparation according to Claim 1, wherein the amounts of said one or more fatty acid monoglyceride(s) and said one or more vitamin A and derivative(s) thereof is 5 to 50 parts by weight of said one or more fatty acid monoglyceride(s) per part by weight of said one or more vitamin A and derivative(s) thereof.

REMARKS

Claim 1 has been amended to replace "comprising" with "consisting essentially of". Claim 4 has been amended to add the phrase "fatty acid monoglyceride(s) and said one or more" in line 2 to clarify the relationships of the amounts of materials. Claims 4 and 7 have had "for" deleted and replaced by "of" in order to place the claims in more readable form. No new matter has been added into the amended claims.

It is hereby requested that the finality of the rejection mailed February 12, 2003 be withdrawn for the following reasons. The Examiner stated that Applicants' amendment necessitated the new grounds of rejection over a newly cited reference (Mathur et al) in the Office Action. However, the amendments to Claims 1-5 in the Response filed October 29, 2002 were editorial in nature and in no way necessitated the citation of new art. Therefore, the finality of the rejection of February 12, 2003 is premature. In a telephone message received from the Examiner on March 18, 2003, the Examiner stated that the supervisor agreed that the action should be considered non-final, but requested arguments be filed in the next response, which is being done herein.

REQUEST FOR RECONSIDERATION

Claims 1-13 are active in the case.

The rejection of Claims 1-6, 8, 9 and 11 under 35 U.S.C. §103(a) as unpatentable over

Maybeck et al in view of the abstract of JP 4338311A is traversed.

In the response to arguments on pages 6 and 7 of the Official Action the Examiner states that no "greater than expected" results are shown in producing lamellar phase from fatty acid monoglycerides. However, the Examiner offers no discussion as to why the superior results demonstrated in the Response of October 29, 2002 show results no "greater than expected" for the present claims over what is shown in the closest prior art, i.e., Maybeck et al. For example, in Test Example 3 in Table 5, pages 16-18 of the specification in which was conducted a small compression test of vitamin A, the composition of the present claims, using glyceryl monopalmitate in invention product 3, and comparative product 2, using soybean lecithin, the same material used in the examples of Maybeck et al, the suppression of vitamin A smell immediately after preparation, after two weeks at 40°C and after 4 weeks at 40°C, showed much superior results in suppression of vitamin A smell for the composition of the present invention, as compared to the composition using soybean lecithin of Maybeck et al. Therefore, it is again asserted by Applicants that the composition of the present invention has superior properties, as compared to a composition using soybean lecithin as in the closest prior art Maybeck et al.

Further, as discussed on page 5 of the response of October 29, 2002, a Declaration under 37 C.F.R. §1.132 was filed in which superior results were shown for Example 1 of the present invention as compared to Example 2 of Maybeck et al, in which the same amounts of fatty acid monoglyceride of the present claims and soybean lecithin of Maybeck et al were used, for both generation of lamellar structure and generation of aggregation. Example 3 of the present invention was compared to Example 4 of Maybeck et al, again in which the same amounts of fatty acid monoglyceride of the present claims and a soybean lecithin of Maybeck et al were used. This comparison also demonstrated superior results for both generation of

lamellar structure and generation of aggregation for Example 3 of the present invention, as compared to Example 4 of Maybeck et al. Therefore, since the Examiner has offered no reasons as to why these results were no "greater than expected", it is submitted that superior results are shown in the comparisons of the composition of the present claims against the composition of the closest prior art, i.e., Maybeck et al., and, therefore, the claims distinguish over the combination of references.

The rejection of Claim 10 under 35 U.S.C. §103(a) as being unpatentable over Maybeck et al. and the abstract of JP 4338311A further in view of Yiournas et al. is traversed.

In view of the discussion above demonstrating that the comparative data and Declaration demonstrate superior results for the composition of the present claims over Maybeck et al., it is submitted that Yiournas et al. does not remedy the deficiencies of the combination of references, since Yiournas et al. merely teaches that a multilamellar structure is "considered best for encapsulation or transportation of lipophilic materials" and does not teach or suggest the composition of present claims. Claim 10 distinguishes over the combination of references.

The rejection of Claims 1-9 and 11-13 under 35 U.S.C. §103(a) as unpatentable over Mathur et al. is traversed.

Claim 1 has been amended to replace "comprising" with "consisting essentially of", thereby limiting the present claims to a composition which does not contain a blend of two lipids, a primary lipid and a secondary lipid as in Mathur et al. Mathur et al. in the abstract and the discussion in column 2, lines 5-16 clearly indicate that it is necessary for the composition of Mathur et al. to have a blend of two lipids, a primary lipid and a secondary lipid and which primary lipid, which forms the greatest proportion of lipids by weight, will not form vesicles nor preferably, even a lamellar phase, without addition of a secondary lipid.

For the above reasons, it is clear that the claims, as amended, distinguish over Mathur et al.

The rejection of Claim 10 under 35 U.S.C. §103(a) as unpatentable over Mathur et al in view of Yiournas et al is traversed.

Yiournas does not remedy the deficiencies of Mathur et al, since Yiournas is directed only to the disclosure that multilamellar vesicles are said to be "best for encapsulation or transportation of lipophilic materials". Claim 10 distinguishes over the combination of references.

The rejection of Claims 4-6 under 35 U.S.C. §112, second paragraph as being definite is traversed.

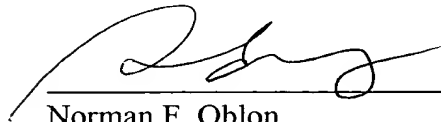
Claim 4 has been amended to clarify what materials in the claim the amounts are based on.

The Examiner argues concerning Claim 5 that the term "composition" to limit further the "preparation" in Claim 1 makes Claim 5 vague and indefinite. However, it is clear that the phrase "skin preparation" is broader than the phrase "cosmetic composition" in Claim 5. This is because a skin preparation may include constituents that are of a pharmaceutical nature and not merely a cosmetic nature, and, therefore, it is submitted that Claim 5 further limits Claim 1 and meets the requirements of 35 U.S.C. §112.

It is submitted that Claims 1-13 are allowable and such action is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No. 24,618

Roland E. Martin
Registration No. 48,082



22850

TEL: (703) 413-3000

FAX: (703) 413-2220

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MARKED-UP COPY OF
AMENDMENT UNDER 37 C.F.R. §1.116

IN THE CLAIMS

Please amend the claims as follows.

1. (Twice Amended) A skin preparation comprising a lamellar structure [comprising] consisting essentially of one or more fatty acid monoglyceride(s) as a main component, and one or more of vitamin A and derivative(s) thereof.

4. (Twice Amended) The skin preparation according to Claim 1, wherein the amounts of said one or more fatty acid monoglyceride(s) and said one or more vitamin A and derivative(s) thereof is 2 to 100 parts by weight [for] of said one or more fatty acid monoglyceride(s) per part by weight of said one or more vitamin A and derivative(s) thereof.

7. (Amended) The skin preparation according to Claim 1, wherein the amounts of said one or more fatty acid monoglyceride(s) and said one or more vitamin A and derivative(s) thereof is 5 to 50 parts by weight [for] of said one or more fatty acid monoglyceride(s) per part by weight of said one or more vitamin A and derivative(s) thereof.